

ESTTA Tracking number: **ESTTA162772**

Filing date: **09/14/2007**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following parties oppose registration of the indicated application.

Opposers Information

Name	Starbucks U.S. Brands, LLC
Granted to Date of previous extension	09/16/2007
Address	2525 Starbucks Way Minden, NV 89423 UNITED STATES

Name	Starbucks Corporation d/b/a Starbucks Coffee Company
Granted to Date of previous extension	09/16/2007
Address	2401 Utah Avenue South Seattle, WA 98134 UNITED STATES

Attorney information	Julia Anne Matheson Finnegan, Henderson, Farabow, Garrett and Dunner, LLP 901 New York Avenue, N.W. Washington, DC 20001 UNITED STATES docketing@finnegan.com, julia.matheson@finnegan.com, andrew.pittman@finnegan.com Phone:202.408.4000
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Applicant Information

Application No	78729620	Publication date	03/20/2007
Opposition Filing Date	09/14/2007	Opposition Period Ends	09/16/2007
International Registration No.	NONE	International Registration Date	NONE
Applicant	Milano Food Concepts Private Limited 50 Raffles Place #31-01 Singapore Land Tower Singapore, 048623 SINGAPORE		

Goods/Services Affected by Opposition

Class 030. All goods and services in the class are opposed, namely: Coffee, namely, coffee beans and ground coffee beans; bread products namely, focaccia, calzones, Danish pastries, biscuits and cookies; pizza
Class 043. All goods and services in the class are opposed, namely: Restaurant services; catering services

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3080371	Application Date	05/28/2003
Registration Date	04/11/2006	Foreign Priority Date	NONE
Word Mark	FRAPPUCCINO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 043. First use: First Use: 2003/08/00 First Use In Commerce: 2003/08/00 Restaurant, cafe, cafeteria, snack bar, coffee bar and coffee house services		

U.S. Registration No.	2458908	Application Date	12/08/1997
Registration Date	06/12/2001	Foreign Priority Date	NONE
Word Mark	FRAPPUCCINO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1994/04/01 First Use In Commerce: 1994/04/01 clothing, namely, shirts, denim shirts, t-shirts, golf shirts, tank tops, caps and hats		

U.S. Registration No.	2251651	Application Date	05/28/1996
Registration Date	06/08/1999	Foreign Priority Date	NONE
Word Mark	FRAPPUCCINO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1996/07/02 First Use In Commerce: 1996/07/02 milk, flavored milk, milk-based food beverages (except milkshakes); carbonated and non-carbonated milk-based soft drinks Class 030. First use: First Use: 1997/03/01 First Use In Commerce: 1997/03/01 coffee and espresso beverages, coffee and espresso based beverages, milkshakes, ice cream, sherbert, sorbet, flavored ices and frozen confections		

U.S. Registration No.	2149732	Application Date	05/28/1996
Registration Date	04/07/1998	Foreign Priority Date	NONE
Word Mark	FRAPPUCCINO		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 029. First use: First Use: 1996/07/02 First Use In Commerce: 1996/07/02 milk, flavored milk, milk-based food beverages (except milkshakes), and non-carbonated milk-based soft drinks Class 030. First use: First Use: 1997/03/01 First Use In Commerce: 1997/03/01 coffee and espresso beverages, coffee and espresso based beverages, milkshakes, ice cream, sherbert, sorbet, flavored ices and frozen confections

U.S. Registration No.	2151175	Application Date	10/05/1995
Registration Date	04/14/1998	Foreign Priority Date	NONE
Word Mark	FRAPPUCCINO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1994/02/01 First Use In Commerce: 1994/02/01 flavoring syrups and liquid and powdered mixes used to make milk-based food beverages Class 030. First use: First Use: 1997/03/01 First Use In Commerce: 1997/03/01 ice cream, sherbert, sorbet, ices and frozen confections; flavoring syrups and liquid and powdered mixes used to make coffee, cocoa or chocolate based beverages Class 032. First use: First Use: 1994/02/01 First Use In Commerce: 1994/02/01 flavoring syrups and liquid and powdered mixes used to make non-carbonated soft drinks		

U.S. Registration No.	2148066	Application Date	08/14/1995
Registration Date	03/31/1998	Foreign Priority Date	NONE
Word Mark	FRAPPUCCINO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1991/07/19 First Use In Commerce: 1991/07/19 milk, flavored milk, milk-based food beverages Class 032. First use: First Use: 1996/07/02 First Use In Commerce: 1996/07/02 non-carbonated soft drinks		

U.S. Registration No.	1745953	Application Date	07/22/1991
Registration Date	01/12/1993	Foreign Priority Date	NONE
Word Mark	FRAPPUCCINO		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 030. First use: First Use: 1991/07/19 First Use In Commerce: 1991/07/19 coffee beverages for consumption on or off the premises
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Attachments	75110366#TMSN.gif (1 page)(bytes) 75110365#TMSN.gif (1 page)(bytes) Notice of Opposition FOCACCINO.PDF (7 pages)(336811 bytes)
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Signature	/Julia Anne Matheson/
Name	Julia Anne Matheson
Date	09/14/2007

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

<p>STARBUCKS U.S. BRANDS, LLC and STARBUCKS CORPORATION DBA STARBUCKS COFFEE COMPANY,</p> <p>Opposers</p> <p>v.</p> <p>MILANO FOOD CONCEPTS PRIVATE LIMITED,</p> <p>Applicant.</p>	<p>Opposition No.:</p> <p>Mark: FOCACCINO MILANO COFFEE BAR AND BAKERY & Design</p> <p>Serial No.: 78729620</p> <p>Filed: October 10, 2005</p>
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NOTICE OF OPPOSITION

Starbucks U.S. Brands, LLC, a limited liability company of the State of Nevada, having a principal place of business at 2525 Starbucks Way, Minden, Nevada 89423, and Starbucks Corporation d/b/a Starbucks Coffee Company, a corporation of the State of Washington, having a principal place of business at 2401 Utah Avenue South, Seattle, Washington 98134 (collectively referred to as "Opposers"), believe that they are being, and will be damaged by the registration of the mark FOCACCINO MILANO COFFEE BAR AND BAKERY & DESIGN mark shown in Application Serial No. 78729620, and hereby oppose the same.


As grounds for opposition, Opposers allege as follows, upon actual knowledge with respect to themselves and their own acts, and upon information and belief as to other matters:


Opposers' FRAPPUCCINO Name and Marks

1. For over 35 years, Opposers have been in the business of offering cafe, restaurant, and coffee-house services, and retail store services featuring coffee, tea, and coffee- and tea-based beverages. Over the years, Opposers have been producing, marketing, distributing, and selling an ever-expanding range of products including, among other things, coffee and non-coffee bottled and blended beverages, ice cream and confectionery products, and apparel all under the FRAPPUCCINO mark.

2. Opposers, by and through their related companies, have used the FRAPPUCCINO trademark in commerce since at least as early as 1991 in connection with, among other things, coffee beverages, milk, flavored milk, and milk-based food beverages.

3. Opposer Starbucks U.S. Brands, LLC is the owner of, among others, the following United States trademark registrations for the mark FRAPPUCCINO (collectively the "FRAPPUCCINO Marks"):

Mark	Reg. No. Reg. Date	First Use Date	Goods
FRAPPUCCINO	3,080,371 04-11-2006	08-00-2003	Restaurant, cafe, cafeteria, snack bar, coffee bar and coffee house services
FRAPPUCCINO	2,458,908 06-12-2001	04-01-1994	Clothing, namely, shirts, denim shirts, t-shirts, golf shirts, tank tops, caps and hats
	2,251,651 06-08-1999	07-02-1996	Milk, flavored milk, milk-based food beverages (except milkshakes); carbonated and non-carbonated milk-based soft drinks
		03-01-1997	Coffee and espresso beverages, coffee and espresso based beverages, milkshakes, ice cream, sherbert, sorbet, flavored ices and frozen confections

Mark	Reg. No. Reg. Date	First Use Date	Goods
	2,149,732 04-07-1998	07-02-1996	Milk, flavored milk, milk-based food beverages (except milkshakes); carbonated and non-carbonated milk-based soft drinks
		03-01-1997	Coffee and espresso beverages, coffee and espresso based beverages, milkshakes, ice cream, sherbert, sorbet, flavored ices and frozen confections
FRAPPUCCINO	2,151,175 04-14-1998	02-01-1994	Flavoring syrups and liquid and powdered mixes used to make milk-based food beverages
		03-01-1997	Ice cream, sherbert, sorbet, ices and frozen confections; flavoring syrups and liquid and powdered mixes used to make coffee, cocoa or chocolate based beverages
		02-01-1994	Flavoring syrups and liquid and powdered mixes used to make non-carbonated soft drinks
FRAPPUCCINO	2,148,066 03-31-1998	07-19-1991	Milk, flavored milk, milk-based food beverages
		07-02-1996	Non-carbonated soft drinks
FRAPPUCCINO	1,745,953 01-12-1993	07-19-1991	Coffee beverages for consumption on or off the premises

All of these registrations are valid and subsisting. They constitute prima facie evidence, and several of the registrations are incontestable and constitute conclusive evidence of Starbucks' exclusive rights to use the FRAPPUCCINO Marks in connection with the products and services recited in the registrations.

4. Opposer has long-established trademark rights in and use in commerce of its FRAPPUCCINO Marks, for a wide variety of goods and services, including coffee

and espresso based beverages, milk, flavored milk, milk-based food beverages, and coffee beverages for consumption on or off the premises since as early as 1991.

5. By virtue of the extensive use and promotion of the FRAPPUCCINO Marks, consumers have come to recognize Starbucks as the source or sponsor of the wide range of products and services marketed under those marks.

6. By virtue of the inherent strength and acquired distinctiveness of the FRAPPUCCINO Marks as applied to Starbucks' products and services; the extensive nationwide use and promotion of the marks; and the federal registration of the FRAPPUCCINO Marks on the Principal Register, these marks have long become famous.

Applicant and its Mark

7. Upon information and belief, Applicant Milano Food Concepts Private Limited is a Singapore company with an address at 50 Raffles Place, #31-01, Singapore Land Tower, Singapore 048623 ("Applicant").

8. On October 10, 2005, Applicant filed Application Serial No. 78729620 to register the mark FOCACCINO MILANO COFFEE BAR AND BAKERY & Design (the "FOCACCINO Mark") for "coffee, namely, coffee beans and ground coffee beans; bread products, namely, focaccia, calzones, Danish pastries, biscuits and cookies; pizza" in International Class 30 under Sections 1(b) and 44(d).

9. Applicant's FOCACCINO Mark, as depicted below, is dominated by the word FOCACCINO:



COUNT I: LIKELIHOOD OF CONFUSION

10. Opposers repeat and reallege each and every allegation set forth in Paragraphs 1 through 9.

11. Opposers have used their FRAPPUCCINO marks in commerce since long prior to the October 10, 2005 filing date of the opposed application, any date of first use that may be alleged by Applicant, and any priority date claimed therefor.

12. Opposers' pleaded registrations issued long prior to the filing date of the opposed application, any date of first use that may be alleged by Applicant, and any priority date claimed therefor.

13. Applicant's FOCACCINO Mark is strikingly similar in sound, appearance, and connotation to Opposers' FRAPPUCCINO Marks.

14. Applicant's FOCACCINO Mark so resembles Opposers' previously used and registered FRAPPUCCINO Marks, as to be likely, when applied to the identified services, to cause confusion, or to cause mistake, or to deceive in violation of Section 2(d), 15 U.S.C. § 1052(d).

COUNT II: DILUTION

15. Opposers repeat and reallege each and every allegation set forth in Paragraphs 1 through 14.

16. Opposers' FRAPPUCCINO Marks became famous well prior to the filing date of Application Serial No. 78729620, any date of first use that may be claimed by Applicant, and any priority date claimed therefor.

17. Applicant's FOCACCINO Mark so resembles Opposers' previously used and registered FRAPPUCCINO marks, as to dilute or be likely to cause dilution of the distinctive quality of Opposers' famous marks in violation of Section 43(c), 15 U.S.C. § 1125(c).

18. For the foregoing reasons, Opposer are being and will be damaged by the registration of the mark shown in Application Serial No. 78729620.

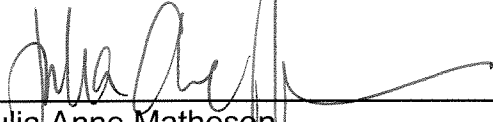
WHEREFORE, Opposers respectfully request that the opposition be sustained, and that registration of the mark in Application Serial No. 78729620 be refused registration.

A filing fee of \$300.00 has been submitted electronically. If the filing fee is found to be insufficient for any reason, please charge such deficiency to our Deposit Account No. 06-0916.

Respectfully submitted,

STARBUCKS U.S. BRANDS, LLC and
STARBUCKS CORPORATION DBA
STARBUCKS COFFEE COMPANY

Dated: September 14, 2007

By: 

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